IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 55 OF 1996

Virbhadra S/o Kashinathrao Himgire
Age : 31 Yrs.,, Occ. Medical Profession
R/o : Eklara, Tq. Mukhed,
Dist. Nanded. .... PETITIONER

V E R S U S

1. The State of Maharashtra
2. The District Magistrate,
   Nanded.
3. The Caste Verification Committeel
   Through its Director,
   Maharashtra State, Pune.
4. The Taluka Executive Magistrate
   Mukhed. .... RESPONDENTS

Mr. S.B.Talekar, Advocate for petitioner.
Mr. V.D.Rakh, Additional Govt. Pleader for State.

CORAM : B.R.GAVAI AND
S.V.GANGAPURWALA, JJ.

DATE : 15/06/2010

ORAL JUDGMENT : [PER - B.R.GAVAI, J.]

1. By way of present petition, the petitioner challenges the Order dated 14/11/1995, vide which the claim of the petitioner of belonging to

‘ Lingder ’ Scheduled Caste came to be invalidated.

2. It appears that a complaint was received by the Collector, Nanded that the petitioner’s claim of belonging to Scheduled Caste was forged one. Accordingly, the Collector initiated the proceedings for determining the validity of the petitioner’s claim. A show cause notice was issued to the petitioner. The petitioner by way of reply dated 30/11/1995 raised an objection to the Collector on the ground that the Govt. of Maharashtra in pursuance to the direction of the Apex Court in the case of ***Kum. Madhuri Patil V/s Additional Commissioner, Tribal Development, Thane and others reported in (1994) 6 SCC – 451*** has constituted caste certificate scrutiny committee and the Collector has no jurisdiction to decide the dispute regarding the same. In the alternative, four weeks time was sought by the petitioner.

3. Vide Order dated 14/11/1995, the Collector on the basis of the report of the Talathi and the Tahsildar, invalidated the claim of the petitioner.

4. Mr. Talekar, the learned counsel for the petitioner submits that the copies of the reports of the Tahsildar and the Talathi were not furnished to the petitioner before the impugned order was passed.

5. Vide the Judgment delivered on 2/9/1994 in case of Kum. Madhuri Patil V/s Additional Commissioner, Tribal Development, Thane and others (supra), the Apex Court has laid down certain guidelines for determining the validity of the claims of the persons belonging to Scheduled

Caste and Scheduled Tribe. By the said Judgment, the Apex Court also directed that the Caste Certificate Scrutiny Committee should be established of various members including experts. The requirement of an enquiry by vigilance cell was also directed by the Apex Court. Admittedly, the present proceedings are initiated by the Collector after the Judgment was delivered by the Apex Court and the Committee was constituted by the State in pursuance to the directions of the Apex Court. In that view of the matter, the order passed by the Collector is not sustainable in law.

6. The contention of the petitioner that the impugned order is passed solely on the basis of the reports of the Talathi and the Tahsildar and the copies of the said reports were not furnished to the petitioner, has gone unchallenged.

7. In that view of the matter, the impugned order suffers from illegality in as much as the material which was not furnished to the petitioner has been taken into consideration while deciding the claim against the petitioner.

8. In the result, Rule is made absolute in terms of prayer clause ‘ A ’.

9. Needless to state that the issue regarding validity of the claim of the petitioner will be determined by the Caste Scrutiny Validity Committee as constituted in accordance with the Maharashtra SC, ST,

VJ, NT, OBC and Spl. B.C. (Issuance of Certificates and Verification of Claim) Act, 2000.

10. In view of the disposal of the present Writ Petition, Civil Application No. 3953 of 1999 stands disposed of.

[S.V.GANGAPURWALA]
JUDGE

[B.R.GAVAI]
JUDGE

knp/WP 55.96